

Filing Answers and Counterclaims in Landlord and Tenant Court

This information sheet describes answers, counterclaims, recoupments, and setoffs that tenants can file in Landlord and Tenant Court cases. A tenant or landlord who would like more information or help writing or filing papers with the Court can go to the Landlord Tenant Resource Center or talk to another lawyer for help. There is information at the end of this information sheet about where to find legal help.

What is an answer?

An answer is a paper that explains the legal reasons (or “defenses”) why the landlord should not be able to evict the tenant or why the tenant owes less money than the amount the landlord is asking for. By filing an answer, the tenant is asking for an opportunity to tell the Court (at a trial) why the tenant should not be evicted. For example, if a landlord claims that a tenant owes rent, the tenant’s answer might say that the tenant does not owe the amount stated by the landlord because of bad housing conditions. If a landlord claims that the tenant has done something to violate the lease, the tenant’s answer may say that the tenant did not do the thing the landlord says.

There is no charge to file an answer, unless it includes a request for a jury trial.

Does a tenant have to file an answer?

In Landlord and Tenant Court, a tenant is not required to file an answer in most cases. However, if a tenant wants to have a jury trial, the tenant must file a verified answer with a jury demand. Verified means the tenant must sign the answer under oath. This can be done without needing to have the document notarized. Even if a tenant is not asking for a jury trial, the tenant may want to file an answer to let the Court and the landlord know what the tenant’s defenses are.

If a tenant is not asking for a jury trial and does not want to file an answer, the tenant must tell the judge what his or her defenses are during the first court hearing so that the judge can schedule a trial.

You can find more information on whether to ask for a jury trial in the information sheet on “Trials”

Can the tenant file a claim against the landlord in Landlord and Tenant Court?

If the landlord has sued a tenant for some reason other than not paying the rent, such as claiming that the tenant has violated the lease in some other way, then the tenant cannot file a claim against the landlord.

If the landlord is trying to evict the tenant because the landlord says the tenant did not pay the rent, the tenant can file a claim against the landlord for money. The tenant’s claim is called a counterclaim, a recoupment, or a setoff. Although they have different names, they are similar.

Counterclaims, recoupments, and setoffs should be filed in writing.

The tenant does not have to file a claim against the landlord to argue defenses that fall within the time period and amount listed in the complaint.

What is the difference between a counterclaim, a recoupment, and a setoff?

In a *counterclaim*, the tenant requests a refund of money paid to the landlord during the past three years because of bad conditions on the property. The tenant can also ask the judge to order the landlord to make repairs to the property or being charged illegally high rent.

In a *recoupment*, the tenant asks the judge not to make the tenant pay all or some of the money that the landlord is asking for because of bad conditions on the property since the tenant moved into the property.

Finally, in a *setoff*, the tenant asks for the landlord to pay the tenant for any work or supplies the tenant paid for to make repairs to the property during the past three years. The tenant may also be able to ask for the

landlord to pay for the cost of a hotel room the tenant paid for if the conditions were so bad the tenant could not stay in the unit or the cost of utilities that the landlord was responsible for in the past three years.

To win on any of these claims for bad conditions on the property, the tenant will have to show that they had bad conditions which violated the Housing Code, the tenant did not cause the problem the landlord knew or should have known about, the problem, and the landlord did not fix the problem within a reasonable period of time.

Is there a charge for filing a counterclaim, recoupment, or setoff?

The Court charges \$10 to file a counterclaim but there is no charge for a recoupment or setoff. If court filing fees will be a hardship for you, you can file an "Application to Proceed Without Prepayment of Costs or Fees." You will appear in front of a judge, who will decide whether to grant your request. If the request is granted, you will be able to file papers with the Court without paying the filing fees.

Is there any reason a tenant might not want to file a counterclaim, recoupment, or setoff?

Yes, in some case. If the tenant files a counterclaim, the landlord can get a money judgment against the tenant if the landlord wins the case even though the landlord would not have been able to get a money judgment if the tenant had not filed a counterclaim. In other cases, filing a counterclaim does not change what the landlord can get. Requesting a recoupment or setoff will not put a tenant at any additional risk of a money judgment.

When does filing a counterclaim, recoupment, or setoff change whether the landlord can get a money judgment against the tenant?

If the complaint was handed to the tenant in person, the landlord has a right to request a money judgment against the tenant, even if the tenant does not file a counterclaim asking for a money. Filing a counterclaim, recoupment, or setoff does not change what the landlord can ask for because the landlord can already get a money judgment in these cases.

On the other hand, if the complaint was not handed to the tenant in person (because it was posted on the

tenant's door and mailed to the tenant or handed to someone else who lives with the tenant), then the landlord cannot get a money judgment against the tenant unless the tenant files a counterclaim asking for a money judgement from the landlord. In these cases, filing a counterclaim does change what the landlord can ask for. However, if the counterclaim is only asking that the court order that the landlord make repairs to the unit, the tenant will not have "put money at issue" and will not be at risk of a money judgment in the case.

Even if the landlord cannot get a money judgment against a tenant in the Landlord and Tenant Court case, the landlord may be able to sue the tenant in a separate case in Small Claims Court or the Civil Actions Branch to get a judgment for the money owed.

If you do not understand the consequences of filing a counterclaim, recoupment or setoff, you should speak to a lawyer.

What is a money judgment?

A money judgment is an order from a judge that the tenant pay the landlord a certain amount of money. In Landlord and Tenant Court, money judgments can only be for back rent, limited late fees, and limited court costs. A tenant can also get a money judgment against a landlord if the tenant wins a counterclaim. The person who wins the judgment can collect money from the person who lost the case by requiring that money be taken out of the other party's paychecks or bank accounts to pay the judgment. The person who wins the judgment also can put a lien on any real estate the other party owns.

In some cases, landlords cannot enforce money judgments, because tenants' only source of income is TANF, SSI, or some other public benefit. For more information on money judgments, please see the sheet on "Judgments" or speak to a lawyer.

Finding Legal Help

Visit www.lawhelp.org/DC for more information including how to contact free legal service providers, or visit the Landlord Tenant Resource Center:

Landlord Tenant Resource Center, Room 208
District of Columbia Superior Court Building B
510 4th Street, N.W.

Open 9:15 AM – noon, Monday through Friday, except legal holidays

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